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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/517,343	12/09/2004	Silverio De Marchi	26440U	2909

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EXAMINER	
KANG, JULIANA K	

ART UNIT	PAPER NUMBER
2874	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/517,343	DE MARCHI, SILVERIO	
	Examiner	Art Unit	
	Juliana K. Kang	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-17 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-7 and 12-17 is/are rejected.

7)☒ Claim(s) 8-11 is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on 09 December 2004 is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date 12/9/04.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: reference number 14 is recited in claim 6 and the reference numbers 14, 16 and 35 are disclosed in the page 10 of the specification but none of the drawings show those reference numbers. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

2. Claim 5 is objected to because of the following informalities:

Claim 5 has typographical errors such as (ii) which should be (11) and en-gage should be engage.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-5, 7 and 8 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1, 2, 4, 6, 14 and 15 of copending Application No. 10/518,397. Although the conflicting claims are not identical, they are not patentably distinct from each other because they claims 1, 2, 4, 6, 14 and 15 of the copending Application No. 10/518,397 recite all of the structure recited in claims 1-5, 7 and 8 of the present application plus additional structure. Although claims are not identical, broader claims 1-5, 7 and 8 of the present application are rendered obvious by the more specific claims 1, 2, 4, 6, 14 and 15 of the copending Application No. 10/518,397.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-4 and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Chudoba et al (U.S. Patent 5,818,993).

Regarding claim 1-4 and 12, Chudoba et al disclose a connector-plug part (10) for an optical plug-in connection, with a connector-plug pin (46) for receiving an optical waveguide (68) extending over a longitudinal center axis and with a sleeve-like pin holder (12, 14, 28) with a pin receiving section (28), in which the connector-plug pin is held, and with a cable receiving section (12, 14), to which the end of an optical waveguide cable (68) can be fixed in a tension-resistant manner, characterized in that the cable receiving section has two identical shell parts having cladding parts (12, 14, it is proper to interpret the cladding parts as shell parts because in claim 5 applicant refers the cladding parts as shell parts) which can be pivoted at a joint by a certain pivoting angle between an open position and a closed position (see Figs 5 and 6).

Please note that the claims 13-17 are method claims and the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1-6 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barlow et al (U.S. Patent 4,946,249) and further in view of Harman et al (U.S. Patent 5,717,813).

Barlow et al disclose an optical splicing assembly comprising; two optical fiber fibers (10, 20) extending over a longitudinal center axis, a sleeve-like fiber holder having two shell parts (40, cladding part) that are separable and made of plastic (see column 3 line 16), receiving sections (both ends of the holder), a protective sleeves comprising two sleeve shells (42), lugs (latches, 56) and lug openings (slots, 58). Barlow et al further disclose that the protective sleeves are elastic means (see column 4 line 22) and shows concavely curved protective shells (see Fig. 6). However, Barlow et al do not teach a connector-plug pin and also do not teach the cladding part that can be pivoted. Using a connector-plug pin in Barlow et al would have been obvious to one having ordinary skill in the art to connect the fiber to other optical or optoelectronic modules with easier, faster and precise manner. Harman et al teach a fusion splicing assembly with both a hinged sleeve (see Fig. 1) and a sleeve made of two separate parts (see Fig. 4). Two separate parts of Barlow et al can be lost when they are separated

(opened) to splice the fibers and using a hinged sleeve would not have this problem. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a hinged cladding part in Barlow et al as taught by Harman et al to make the device easier to handle. Barlow et al also do not teach using an adhesive material. Using an adhesive material in the art is well know to hole the fiber in place so that fiber does not move around. Thus it would have been obvious to one having ordinary skill in the art at the time the invention was made to use an adhesive material in Barlow et al to hold the fiber within the protective sleeve with better alignment.

Please note that the claims 13-17 are method claims and the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight.

9. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barlow et al (U.S. Patent 4,946,249) and Harman et al (U.S. Patent 5,717,813) and further in view of Destanque et al (U.S. Patent 6,412,640 B1).

As described above Barlow et al and Harman et al teach the claimed invention except the hinge that is a film hinge. Destanque et al teach a film hinge has the advantage of being simple and inexpensive to produce. Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a film hinge in Barlow et al and Harman et al to reduce manufacturing cost.

Allowable Subject Matter

10. Claims 8-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. The prior art documents submitted by applicant have been considered and made of record (note the attached copy of form PTO-1449).

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Essert et al (U.S. Patent 5,367,594) teach fiber optic splicer-connector. Rifkin et al (U.S. Patent 5,894,536) teach protecting the spliced region with a rigid plastic housing comprising two halves that fold along a hinge (see column 2 lines 25-26). Loch (U.S. Patent 5,546,491) teaches an optical fiber splicing assembly. Liberty et al (U.S. Patent 6,443,633 B1) teach optical device package comprising protective shells.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Juliana K. Kang whose telephone number is (571) 272-2348. The examiner can normally be reached on Mon. & Fri. 10:00-6:00 and Tue. & Thru. 10:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rod Bovernick can be reached on (571) 272-2344. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JULIANA KANG
PRIMARY EXAMINER

3/18/06